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Cable
Text:

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UNCLAS SECTION 01 OF 04 ABU DHABI 004564

SIPDIS

STATE PASS USTR

E.O. 12958: N/A
TAGS: ECON EFIN ETRD TC
SUBJECT: 2005 NATIONAL TRADE ESTIMATE, UNITED ARAB EMIRATES

REF: STATE 240980

¶1. The body of this cable is the submission of the 2005 National Trade Estimate for the United Arab Emirates. A word file with tracked changes will be emailed to USTR and NEA.

¶2. Begin text:

TRADE SUMMARY

The United Arab Emirates is a federation of seven emirates (Abu Dhabi, Dubai, Sharjah, Ajman, Umm Al-Qaiwain, Fujairah, and Ras Al-Khaimah) founded in December 1971, because the individual emirates realized that they were too small and too poor to be viable on their own. Over the last 33 years, the UAE has developed into the third largest economy in the Arab world, with an estimated 2003 GDP of about $80 billion. The UAE has pursued free market, pro free-trade policies to diversify its economy away from its dependence on oil. Despite possessing 9-10% of the world's proven oil reserves and the fourth largest proven gas reserves in the world, rapid growth in the non-oil economy reduced oil's share of GDP from 65% in 1980 to about 30% now.

The UAE is part of the Gulf Cooperation Council (GCC), an economic and political policy-coordinating forum for the six member states (Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE). Since the GCC cannot impose trade policies upon the member states, each is free to pass and enforce its own trade laws. However, there has been growing cooperation among GCC member states on issues such as customs duties, intellectual property protection, standards setting, and intra GCC investments. In January 2003, the GCC implemented a Customs Union, unifying tariffs throughout the GCC. In theory, the Customs Union means that the members have adopted unified customs laws and procedures, however there remain many practical details to resolve including tariff exemptions, standards, and revenue distribution. The GCC has set 2005 as a deadline for agreement on convergence criteria and 2010 as the target date for adoption

of a single currency.

The UAE is a major trade hub and a major regional financial center. Last year, the U.S. exported $3.5 billion in non-military goods to the UAE (an eight percent market share) and imported $1.1 billion, and there are approximately 500 American companies physically present in the country. In 2003, UAE exports reached $65 billion while imports grew to $43 billion, giving the UAE a trade surplus of almost $20 billion and a current account surplus of $11 billion.

IMPORT POLICIES

Tariffs

At the December 2001 Summit, GCC Heads of State adopted an across-the-board common external tariff of five percent for most products to start in January 2003 as part of the Customs Union agreement. The GCC states also agreed to develop a list of products to which a higher tariff will apply. The exceptions to the five percent tariff in the UAE are a fifty percent tariff for alcohol, a one-hundred percent tariff for tobacco, and duty exemptions for 53 food and agricultural items.

Import Licensing

In the UAE, only firms with the appropriate trade license can engage in importation, and only UAE nationals can get such a license, with the exception of goods being imported into free zones. Not all goods require an import license, however.

Documentation Requirements

Since July 1998, the UAE has required that documentation for all imported products be authenticated by the UAE Embassy in the United States. There is an established fee schedule for this authentication. Without the validation in the United States, customs authorities will apply the fee schedule when the goods arrive in the UAE.

Customs Valuation

The UAE notified the WTO Customs Evaluation Committee in October 2004 of its customs valuation scheme.

Textiles

Textile manufacturing represents approximately 10 percent of the UAE's gross domestic product, and Ministry of Economy officials have said that the textile sector is key to the UAE's efforts to diversify its economy. The UAE has attracted a number of garment manufacturers because of its close proximity to the Indian subcontinent and the lack of corporate or personal income taxes. The majority of garment factories are located in free trade zones, where they operate exempt from UAE commercial law and can be owned 100 percent by foreigners. In 2003, the Dubai Government announced the development of a $60 million textile free zone, called Dubai Textile City that is expected to open in fall 2005. The UAE has proposed eliminating the four percent textile tariff that currently exists between GCC members to further ease restrictions on textile trade.

STANDARDS, TESTING, LABELING AND CERTIFICATION

As part of the GCC Customs Union, member countries are working toward unifying their standards and conformity assessment systems, and have progressed considerably toward the goal of a unified food standard, originally targeted for adoption by 2006. However, each country currently applies either its own standard or a GCC standard, causing confusion among business.

The UAE opened the Emirates Authority for Standardization and Metrology (ESMA), established under the auspices of the Ministry of Finance and Industry, in October 2002 to manage issues of standardization arising from the GCC Customs Union. The UAE has decided not to implement the GCC International Conformity Certification Program (ICCP) that the U.S. identified as a barrier to trade. ESMA has launched a voluntary compliance

program (Emirates Conformity Assessment Scheme or ECAS) on selected products to be verified for compliance. ECAS specifically applies national or Gulf standards to domestically manufactured products, and apply international standards if national of Gulf standards do not exist. The ECAS only applies to domestically produced, not imported, goods. The UAE enforces national or GCC food standards that are not based on WTO standards published through the CODEX, OIE and IPPC organizations. In addition, the UAE requires that all consumer-ready food products carry both production and expiry dates and stipulates that at least one-half of a product's shelf life must be in effect when a product reaches the port of entry. For red meats and poultry, the product must arrive within four months of production. In direct contradiction to the IOIE standards, the UAE maintains import bans on meat and animal products originating from U.S. origin poultry and cattle.

In August, 2004, the UAE cabinet transferred control of the country's Food Safety and Technical Advisory Committee from the General Secretariat of Municipalities to the ESMA.

GOVERNMENT PROCUREMENT

The UAE does not require that a portion of any government tender be subcontracted to local firms, but it grants a 10 percent price preference for local firms in government procurement. The UAE requires a company to be registered to be invited to receive government tender documents. To be registered, a company must have 51 percent UAE-ownership. However, these rules do not apply on major projects or defense contracts where there is no local company able to provide the goods or services required. Established in 1990, the UAE's offset program requires defense contractors that are awarded contracts valued at more than $10 million to establish joint venture projects that yield profits equivalent to 60 percent of the contract value within a specified period (usually seven years). There are also reports, as well as anecdotal evidence, indicating that defense contractors can sometimes satisfy their offset obligations through an up-front, lump-sum payment directly to the UAE Offsets Group. The projects must be commercially viable joint ventures with local business partners, and are designed to further the UAE objective of diversifying its economy away from oil. To date, more than 40 projects have been launched, including, inter alia, a hospital, an imaging and geological information facility, a leasing company, a cooling system manufacturing company, an aquiculture enterprise, Berlitz Abu Dhabi, and a firefighting equipment production facility. Two of the largest offset ventures are an international gas pipeline project (Dolphin) and the Oasis International leasing company -- a British Aerospace offsets venture. The UAE is not a signatory to the WTO Agreement on Government Procurement.

EXPORT SUBSIDIES

The UAE does not have export subsidies.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

The UAE has made the protection of intellectual property a priority in recent years. The UAE repealed previous copyright, trademark, and patent laws and issued improved legislation in 2002, providing high levels of protection for U.S. intellectual property, while an agreement between the UAE and U.S. pharmaceutical companies provides de facto patent protection for a number of copies of U.S. patent-protected medicines. In 2004, the UAE resolved a number of IPR complaints with U.S. pharmaceutical manufacturers.

The new copyright law, enacted in July 2002, grants protections to authors of creative works and expands the categories of protected works to include computer programs, software, databases, and other digital works. Efforts to combat computer software piracy in the UAE have been successful. According to 2002 industry estimates, the rate of software piracy in the UAE is the lowest in the Middle East. The UAE is recognized as the regional leader in fighting computer software piracy.

The UAE's new Trademark Law, also issued in July 2002, confirms

that the UAE will follow the International Classification System and that one trademark can be registered in a number of classes. The new law provides that the owner of the registration shall enjoy exclusive rights to the use of the trademark as registered and can prevent others from using an identical or similar mark on similar, identical or related products and services if it causes confusion among consumers.

The UAE published the official and final version of the long-awaited Patent Law in November 2002.

Specifically, the Patent Law provides for national treatment for property owners from other WTO Members, product and process patent protection, and enforcement of intellectual property rights utilizing civil and criminal procedures and remedies. In October 2003, the Ministry of Health issued a circular providing data exclusivity protection in the UAE market for pharmaceutical products equal to the patent term of the pharmaceutical product in the origin country.

In 2004, the Ministry of Information issued new regulations allowing for specialized collecting societies as a practical way for sound recording companies to collect royalties on the broadcast and performance of copyrighted material. The UAE government also is considering legislation for data protection, privacy, and other IP-related issues. The UAE continued to enforce IPR laws and regulations, and in response to TIFA Council discussions, identified points of contact for rights holders to address complaints.

SERVICES BARRIERS

Insurance

In November 2004, the Ministry of Economy and Planning announced that it will open its insurance sector to new foreign insurance companies. About half of the current 47 insurance companies in the UAE are foreign, but the UAE government froze new entries to the market in 1989 due to a perception that the market was saturated. New foreign companies will be required to meet high-level international rating criteria and to offer new products to the market.

Banking

The UAE has 21 national banks, 26 foreign financial entities, and a total of 457 branches. Following a banking crisis caused by accumulating bad debts after the oil boom in the mid-1980s, the Central Bank stopped giving licenses to new foreign banks. However, in September 2003, the UAE Central Bank announced that it would allow the operation of more banks from other countries on a reciprocal basis. The Central Bank is also considering allowing foreign banks operating in the UAE to set up new branches provided that they undertake to employ UAE nationals. Figures by the Central Bank show national banks enjoy a stronger financial position than foreign banks operating in the UAE, with assets peaking at the end of March 2003 at nearly $68.3 billion compared with foreign banks' assets of around $21.5 billion. The UAE opened the Dubai International Free Zone in 2004, which exempts foreign banks from civil and commercial, though not criminal, law.

Shipping

The UAE presents no major impediments to shipping.

Agent and Distributor Rules

The UAE's Commercial Agencies Law requires that foreign principals distribute their products in the UAE only through exclusive commercial agents that are either UAE nationals or companies wholly owned by UAE nationals. The foreign principal can appoint one agent for the entire UAE or for a particular emirate or group of emirates. All UAE commercial agents must be registered with the Ministry of Economy and Planning. Once chosen, agents/distributors have exclusive rights, and the law provides that an agent may be terminated only by mutual agreement of the foreign principal and the local agent, notwithstanding the

expiration of the term of the agency agreement. Since 1996, the UAE has not recognized new agency agreements in the food sector. Agency agreements in existence prior to this period are still recognized. The UAE is discussing amendments to the Agency Law, although no formal decisions have been made at this time.

INVESTMENT BARRIERS

Except for companies located in one of the free zones, at least 51 percent of a business establishment must be owned by a UAE national. A business engaged in importing and distributing a product must be either a 100 percent UAE owned agency/distributorship or a 51 percent UAE/49 percent foreign limited liability company (LLC). Subsidies for manufacturing firms are only available to those with at least 51 percent local ownership.
The laws and regulations governing foreign investment in the UAE are evolving. There is no national treatment for investors in the UAE. Non-GCC nationals cannot own land, but the emirate of Dubai currently is offering so-called free hold real estate ownership for non-GCC nationals within certain properties. However, the exact legal status of this scheme is still uncertain. 22 out of 53 stocks on the UAE stock market are open to foreign investment. Ministry of Economy and Planning rules allow foreign investment up to 49% in companies on the stock market, however, company by-laws in many cases prohibit foreign ownership. There have been no significant investment disputes during the past few years involving U.S. or other foreign investors. Claims resolution is also a problem as foreign companies tend not to press claims for fear that doing so may jeopardize business activity in the UAE.

ELECTRONIC COMMERCE

In the UAE, the Emirate of Dubai passed The Law of Electronic Transactions and Commerce No. 2/2002 in 2002, which protects certain electronic records and signatures, and some electronic communications. This law also provides penalties for any person who knowingly creates, publishes, or otherwise makes available false signature or certificate, or provides false statements online for fraudulent or any other unlawful purpose. In March 2003, the International Bar Association hosted a conference in Dubai entitled, Middle East Law and the Internet Age. The conference addressed the legal developments related to new technologies, with a focus on electronic commerce in the Middle East. The Emirate of Dubai has established the Dubai Technology, Electronic Commerce and Media Free Zone (TECOM), which houses both Internet City and Media City, two subdivisions which cater, respectively, to the information technology and media sectors. In April 2004, the UAE announced the opening of the telecommunications sector, revoking Emirates Telecommunications Corporation's (Etisalat) monopoly rights. This decree will take affect on January 1, 2005.

OTHER BARRIERS

Corporate Tax Policies

There is no income tax or consumption tax in the UAE. Foreign banks pay 20 percent tax on their profits, and foreign oil companies with equity in concessions pay taxes and royalties on their proceeds.

End text.

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